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EXAMINER

STERRETT, JONATHAN G

ART UNIT PAPER NUMBER

3623

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/930,640

Applicant(s)

NEL, ANDRE M. E.

Examiner

Jonathan G. Sterrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Summary

1. This **Final Office Action** is responsive to applicant's amendment filed April 14, 2006. Currently **Claims 1-24** are pending.

Response to Arguments

2. The applicant's arguments regarding Claims 1, 2-9, 21-24, 8, 9, 21, 23, 10, 11-17, 19 and 20 have been fully considered but are not persuasive.
3. The applicant's arguments regarding Claim 18 are moot in view of new grounds of rejection.
4. The applicant argues that Gaspard does not teach receiving from one or more users excess capacity information specifying available freight-hauling capacity for freight-hauling mobile carrier entities, as is recited by Claim 1. This argument was supplemented by a challenge to the Official Notice and an assessment that the combination of the official notice and Gaspard was nonsensical.

The examiner respectfully disagrees.

Gaspard notes in para 6 that the need to "have freight delivered, especially in outlying areas, can change dramatically over short periods of time and can therefore be difficult to schedule in advance". Gaspard further goes on to describe examples where events in the short term result in a need by a recipient of logistics delivery to have

freight delivered to them. Gaspard further complicates this by noting that remote delivery needs consist of both passengers and freight. He notes in para 7 that the transportation demands can change “even after the vehicle is in route”. Gaspard explicitly states that there is a need “to update the transportation schedule in real time based on the transportation needs of the communities”. Gaspard’s vehicle in this situation is traveling with freight and passengers (see Figure 6A) where the need arises for the schedule to change. In the light of his need statements of para 6 and 7, this means that based on the excess capacity inferred from the existing scheduled passengers and cargo, and the known capacity of the vehicle, a determination (i.e. a calculation) is made of whether the vehicle can divert to provide the last minute needed service (see also para 42 and 60) based on it’s location and a determination of the vehicle’s capacity.

Gaspard teaches that there are times when there is excess capacity where it is reserved but not used (see the last part of para 60).

Gaspard further teaches that profitability is a determination for whether a changed route is accepted (para 60). That is, a change to the route to pick up and deliver different passengers or freight than scheduled (per the scenarios Gaspard lays out as dicussed above) is subject to whether the changed route is profitable or not, based on the new freight (and/or new passengers).

Gaspard discloses that there may be reserved but unutilized space and that space is considered utilized by the system. Gaspard teaches that a delivery vehicle will

be in a situation where there is a need to change the route to accommodate a last minute request. When this occurs, the actual freight a vehicle is carrying can be less than what the system actually shows it to be carrying, and thus the vehicle has more capacity than the system shows it to have.

Official Notice was taken that receiving capacity information specifying available freight-hauling capacity is old and well known in the art.

Since Gaspard teaches the need to accommodate last minute requests and further the fact that the system's indication of freight capacity may be understated because of unutilized space, one of ordinary skill in the art at the time of the invention would find it obvious to modify Gaspard to include receiving from one or more users the freight hauling capacity of those mobile carrier entities, because it would improve efficiency since it would make better utilization of the available capacity on the freight vehicles in Gaspard's invention.

5. The applicant argues that Gaspard and the Official Notice do not meet the limitations of Claim 8 in "computing an amount of capacity available on a given mobile carrier entity based upon excess capacity information received from the given mobile carrier entity".

The examiner respectfully disagrees. Gaspard discusses determining profitability - for example, if "ninety percent of the seats and twenty percent of the freight

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requirements used could indicate profitability". This determination of a threshold for profitability requires computing an amount of capacity available. Otherwise it would not be possible to determine the actual revenues and costs based on utilizing the extra capacity to make an unscheduled pickup and delivery. Furthermore, Gaspard discloses "available freight requirements (i.e. volume and weight)". One of ordinary skill in the art would recognize that truck freight capacity is based on volume and weight. For example, truck capacity can be determined by volume (as in carrying a load of pingpong balls and yet not exceeding rated trailer capacity) or can be determined by weight (a load of coil steel where the weight capacity is met and additional space (volume) is available. One of ordinary skill in the art would understand that receiving volume and weight information and making a determination of excess capacity, as disclosed by Gaspard, would require computing capacity based on limitations of volume and weight. As noted above, the excess capacity limitation received from the mobile carrier entity was met by the Official Notice. As per the Official Notice, receiving the mobile carrier entity truck capacity with the teachings of Gaspard regarding evaluating weight and volume to determine profitability (i.e. computing capacity) fully meets the claimed limitations.

6. The applicant argues that Gaspard and the Official Notice do not meet the limitations of Claim 9 in "wherein the excess capacity information received from the given mobile carrier entity includes maximum volume information and maximum weight haulable by the given mobile carrier entity and volume information and weight for each

item of freight being hauled by the given mobile carrier entity”.

The examiner respectfully disagrees.

Gaspard teaches that the central system tracks the freight that is actually carried, including passengers and freight. The excess capacity is inferred based on what is stored in the computer, that is, what has been scheduled. Gaspard teaches that the capacity is determined based on volume and weight determination of the freight carried. This would include a determination of the volume and weight capacity as determined by the volume and weight from each article of freight that is carried, since each individual article adds up to the total. As noted above, Gaspard reschedules a route to pick up new passengers and/or freight while the truck is enroute. This would require knowing the capacity (maximum volume and weight) of the vehicle, to know whether the vehicle can actually handle the request or not. As note above also, Gaspard indicates that vehicles may be carrying unutilized but reserved space (e.g. a passenger bought a ticket but did not show up). The Official Notice would make Gaspard's invention more efficient by receiving from the mobile carrier entity the actual freight being carried (i.e. capacity information). This would make Gaspard's invention more efficient and help meet the profitability goals for unscheduled requests by accurately reflecting the capacity that can be carried.

7. The applicant argues that Gaspard and the Official Notice do not meet the limitations of Claim 21 in “the receiving comprises prompting the user to enter the respective capacity attributes”.

The examiner respectfully disagrees. Gaspard teaches the need to obtain and use this information. Capacity attributes are necessary to Gaspard because of the need to reschedule logistics service in real time. In particular, Gaspard teaches that there is a particular time when the capacity information is needed. This occurs when unanticipated requests come in from the field to reschedule a logistics route. Official Notice was taken that it is old and well known in the art to receive capacity information of mobile entities from one or more users in Claim 1. In claim 21, Official notice was taken that it is old and well known in the art to prompt users to enter information, including excess capacity information. Since Gaspard teaches the need to use the capacity information, and as well, the need to use it at a particular time, one of ordinary skill in the art would find sufficient motivation to combine the teachings to meet the need of obtaining capacity information from one or more users for mobile entities, where that capacity information is needed in real time, where the user is prompted to enter the capacity attributes, to be used in making a determination to reschedule a logistics service.

8. The applicant argues that Gaspard and the Official Notice do not meet the limitations of Claim 23 in “receiving haulage rates from the identified freight haulage job candidates, wherein the selecting is based at least in part on the received haulage rates”.

The examiner respectfully disagrees. Gaspard teaches that specific vehicles are candidates for last minute route changes to pick up freight and/or passengers. Gaspard

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further teaches the need to determine profitability (i.e. revenue – cost) for a particular change in route. Since profitability is dependent on the cost (i.e. rate) that will be incurred by a route change, Gaspard teaches the need to use this information. If the rate cost is too high in comparison to the revenue to be gained, then the schedule change request is not pursued, that is, the route change is not made.

The Official Notice is that it is old and well known in the art of 3PL's (i.e. carriers) to select a carrier based on their rate cost, since some carriers are cheaper than others. Since Gaspard teaches profitability is a criteria in making a route change, one of ordinary skill in the art of logistics would have found it obvious to modify Gaspard's invention to select a 3PL carrier based on the carrier's freight cost, because it would save money over more expensive carriers and enable Gaspard's profitability goals to be met.

9. The applicant has attempted to challenge the examiner's taking of Official Notice for Claims 1; however, applicant has not provided adequate information or argument so that *on its face* it creates a reasonable doubt regarding the circumstances justifying Official Notice. Therefore, the presentation of a reference to substantiate the Official Notice is not deemed necessary. The examiner's taking of Official Notice has been maintained.

(Examiner comment: the concept of receiving capacity information from a mobile carrier entity is as old and well known as when taxicabs first began carrying radios back

in the late 1940's (per wikipedia: <http://en.wikipedia.org/wiki/Taxicab>). This enabled productivity and service improvements since taxicab dispatchers could better communicate with individual taxicabs to direct pickups based on whether the taxicab was carrying a passenger or not).

However, the limitation of "receiving from one or more users respective capacity attributes, including excess capacity information specifying available freight-hauling capacity" is found in the following reference:

Marshall, Lawson; "Data: Captured Then Used", July 1996, Fleet Equipment; ABI/INFORM Global, p.S6.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-6, 8, 9, 10-14, 16, 17 and 21-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gaspard, II US 2002/0055818** (hereinafter **Gaspard**).

Regarding **Claim 1**, Gaspard teaches:

receiving from one or more users respective capacity attributes, including

position information, route information and excess capacity information specifying available freight-hauling capacity, for each mobile carrier entity in a set of freight-hauling mobile carrier entities;

Paragraph 38 line 2-4, GPS data (i.e. position information) transmitted from each vehicle (i.e. each mobile carrier entity) is received by the host computer.

Paragraph 42 line 1-4, route information is retrieved (i.e. received) from database of available vehicles and the routes where they are located.

Paragraph 60 line 2-4, freight requirements for a freight transport request (i.e. excess capacity information) are received from the database to determine if a freight transport request (and passenger requests from individual terminals) can be fulfilled and how it can be fulfilled. The scheduling function as described receives available freight hauling capacity in order to schedule the routes. Gaspard's invention fulfills freight transport requests for a set of mobile entities –see paragraph 42 line 4).

computing a projection of available carrier capacity based upon the received mobile carrier capacity attributes; and

Paragraph 43 line 1-6, arrival and departure times are predicted (i.e. computed) based on the information received from the mobile carrier capacity attributes.

identifying one or more freight haulage job candidates from the set of mobile carrier entities based upon the computed projection of available carrier capacity and shipping attributes for each of a set of freight haulage jobs.

Paragraph 42 line 22-26, more than one current schedule (i.e. current route of a mobile carrier) is examined to determine if the freight request can be handled (i.e.

identifying one or more freight haulage candidates based on whether the freight can be handled according to capacity and delivery requirements (i.e. based on computed projections of available carrier capacity and shipping attributes).

Gaspard does not teach:

receiving from one or more users respective capacity attributes, including excess capacity information specifying available freight-hauling capacity.

Gaspard's teaching infers the excess capacity information based on passenger terminal inputs (i.e. requests for pickup) and known vehicle capacity.

The examiner takes Official Notice that receiving from one or more users capacity information specifying available freight-hauling capacity is old and well known in the art. An example of this is logistics dispatchers who receive excess capacity information via radio from delivery drivers in order to more efficiently schedule routes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding receiving capacity and position attributes from and for mobile carrier entities, to include the step of receiving excess capacity information, because it would enable more efficient scheduling for the mobile carrier entities.

Regarding **Claim 2**, Gaspard teaches:

wherein computing the projection of available carrier capacity comprises estimating future positions of one or more of the mobile carrier entities.

Paragraph 43 line 1-2, the host computer computes projections of available capacity by predicting arrival and departure time at a location (i.e. estimating future positions) for a candidate mobile carrier.

Regarding **Claim 3**, Gaspard teaches:

wherein future positions of one or more of the mobile carrier entities are estimated at one or more times within pickup time windows specified for each of the freight haulage jobs.

Paragraph 49 line 14-16, arrival and departure times are estimated for a mobile carrier. The arrival and departure times comprise a pickup time window for each of the freight haulage jobs.

Paragraph 44 line 11-15, the estimation of pickup and delivery times (i.e. pickup window) is done several times during the movement of the vehicle to the destination.

Regarding **Claim 4**, Gaspard teaches:

wherein future positions of one or more of the mobile carrier entities are estimated based at least in part upon current transport condition information.

Paragraph 44 line 14-16, future positions (i.e. pickup and delivery stops) are estimated based on actual performance of the vehicle (i.e. transport condition information).

Regarding **Claim 5**, Gaspard teaches:

wherein the freight haulage job candidates are identified based at least in part upon the proximity of the estimated mobile carrier entity positions to pickup locations specified for each of the freight haulage jobs.

Paragraph 42 line 22-26, the determination of candidates is based on their ability to meet the transportation request, i.e. freight requirements including capacity and timing. The timing is determined by their proximity to pickup based on estimated routing information.

Regarding **Claim 6**, Gaspard teaches:

wherein the received excess capacity information includes amount of available capacity and mode of transport.

Paragraph 60 line 2-4, available capacity is determined by amount of freight space available in terms of volume and weight (i.e. available capacity).

Paragraph 34 line 3-6, various modes of transport (air, vehicle, marine) can be used in scheduling the excess capacity.

Regarding **Claim 8**, Gaspard teaches:

computing an amount of capacity available on a given mobile carrier entity based upon excess capacity information received from the given mobile carrier entity.

Paragraph 60 line 1-2, transportation freight requirements are evaluated (i.e. computed) against available capacity (volume and weight) to determine if the load can be carried by the mobile carrier in question.

Gaspard does not teach where the excess capacity information is received from the given mobile carrier entity.

The examiner takes Official Notice that receiving from a mobile carrier entity capacity information specifying available freight-hauling capacity is old and well known in the art. An example of this are logistics dispatchers who receive excess capacity information via radio from delivery drivers in order to more efficiently schedule routes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding computing excess capacity information for mobile carrier entities, to include the step of receiving excess capacity information from that mobile carrier entity, because it would enable more efficient scheduling for the mobile carrier entities.

Regarding **Claim 9**, Gaspard teaches:

wherein the excess capacity information received from the given mobile carrier entity includes maximum volume information and maximum weight

haulable by the given mobile carrier entity and volume information and weight for each item of freight being hauled by the given mobile carrier entity.

Paragraph 60 line 2-4, freight requirements of volume and weight for a freight transport request (i.e. excess capacity information) are received from the database to determine if a freight transport request can be fulfilled for a given mobile carrier entity.

Paragraph 41, cube and weight requirements required by mobile carrier entity in weight request.

Gaspard does not teach where the excess capacity information is received from the given mobile carrier entity.

The examiner takes Official Notice that receiving from a mobile carrier entity capacity information specifying available freight-hauling capacity is old and well known in the art. An example of this are logistics dispatchers who receive excess capacity information via radio from delivery drivers in order to more efficiently schedule routes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding receiving cube and weight information for mobile carrier entities, to include the step of receiving excess capacity information from that mobile carrier entity, because it would enable more efficient scheduling for the mobile carrier entities.

Claims 10-14 and 16-17 recite similar limitations as those recited in **Claims 1-6, 8 and 9** above, and are therefore rejected under the same rationale.

Regarding **Claim 21**, Gaspard does not teach:

Wherein the receiving comprises prompting the one or more users to enter the respective capacity attributes.

Official Notice is taken that prompting a user to enter information, including excess capacity information, is old and well known in the art of computers. This provides an easy to use interface to enter data into a computer system.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding receiving cube and weight information for mobile carrier entities, to include the step of prompting the user to enter the capacity information, because it would provide an easy way to enter data into a computer system.

Regarding **Claim 22**, Gaspard teaches:

selecting one of the identified freight haulage job candidates to perform a particular one of the freight haulage jobs.

Paragraph 42, a candidate is selected of available candidates to carry the freight.

Regarding **Claim 23**, Gaspard does not teach:

**receiving haulage rates from the identified freight haulage job candidates,
wherein the selecting is based at least in part on the received haulage rates.**

Official Notice is taken that selecting a carrier based on a received rate quote is old and well known in the 3pl art. This ensures the most competitive rate is achieved to save money in carrying freight.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding receiving cube and weight information for mobile carrier entities, to include the step of receiving rate information and selecting a carrier based on the rate information, because it would save money in transporting a particular freight haulage job.

Regarding **Claim 24**, Gaspard teaches:

**wherein the excess capacity information is expressed in terms of volume
and weight available on respective ones of the mobile carrier entities.**

Paragraph 39, volume and weight of package pickup (i.e. excess capacity information) is requested. The scheduling algorithm must take the cube and weight information into account to be able to schedule the request –see para 42, available vehicles scheduled are those that can carry the requested freight.

12. **Claims 7 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gaspard, II US 2002/0055818** (hereinafter **Gaspard**).

Regarding **Claim 7**, Gaspard teaches:

wherein the freight haulage job candidates are identified based at least in part upon a comparison of the received excess capacity information and an amount of needed capacity specified for each of the freight haulage jobs.

Paragraph 60 line 2-4, freight requirements of volume and weight for a freight transport request (i.e. excess capacity information) are received from the database to determine if a freight transport request can be fulfilled and how it can be fulfilled for a given mobile carrier entity.

Paragraph 43 line 1-6, arrival and departure time predictions are used to determine if a mobile carrier entity can be scheduled to handle the particular freight.

Gaspard does not teach:

wherein the freight haulage job candidates are identified based at least in part upon mode of transport specified for each of the freight haulage jobs.

Official Notice is taken that it is old and well known in the art of logistics to identify freight haulage job candidates based in part upon mode of transport specified for a freight haulage job. For example, if a mode of transport specified is by air, then the job candidate would be an airline and not a railroad. If mode of transport is

specified by marine vessel, then a railroad freight haulage candidate would not be selected.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding selecting a freight haulage candidate based on their excess capacity and predicted arrival at a location, to include the step of identifying a freight haulage candidate based on mode of transport specified for a freight haulage job, to ensure that the mode of transport requirement was met in providing transportation for the freight haulage job.

Claim 15 recites similar limitations as those recited in **Claim 7** above, and is therefore rejected under the same rationale.

13. **Claims 18-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gaspard, II US 2002/0055818** (hereinafter **Gaspard**) over Norand's Pen*Key 6622 mobile computer (hereinafter **Norand**).

"Pen*key 6622 Lightweight power house for Mobile Applications", Norand.com, web.archive.org webpage of Feb 6, 1998, p.1-2. (hereinafter **Reference R**)

"The Automation Solution", Norand.com, web.archive.org webpage of Feb 6, 1998, p.1-2. (hereinafter **Reference T**)

"Return on Investment Model", Norand.com, web.archive.org webpage of Feb 6,

1998, pp.1-5. (hereinafter **Reference P**)

The examiner notes that the Norand product (Pen*key 6622) is described in three different documents (R,T and P) describing aspects of this handheld computer.

Regarding **Claim 18**, Gaspard teaches:

A memory;

Paragraph 37 line 3, each terminal has memory.

A wireless transceiver;

Paragraph 37 line 6, any type of terminal can be used, including cellular telephones (i.e. wireless transceiver).

A positioner operable to compute position information;

Paragraph 38, GPS computes position information. This GPS system is attached to the vehicle, so that the location of the vehicle can be identified via GPS.

A controller coupled to the memory, the wireless transceiver, the positioner, and the scanner and operable to obtain from the scanner capacity attributes, including position information, route information and excess capacity information,

Figure 1 #140 and paragraph 35 line 1-5, the host computer is connected over the network (see paragraph 36, network can be wireless, e.g. cellular phones) to memory, the positioner and is operable to obtain the position, route and excess capacity information from a mobile carrier – see paragraph 38 line 2-6)

for a mobile carrier entity and to control wireless transmission of the capacity attributes through the wireless transceiver in accordance with a mobile wireless communication protocol.

Paragraph 37, the terminals (including wireless devices – see line 6) communicate over and network and thus transmit in accordance with a mobile wireless communication protocol.

Gaspard does not teach:

A scanner operable to direct a light beam at a symbol and to recover information embedded in the symbol based on detected reflections from the symbol.

The examiner takes official notice that bar code scanners which recover information from symbols based on detected reflections from the symbol are old and well known in the art of logistics as a way to quickly and accurately obtain information from a shipping package.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard regarding providing a system for scheduling capacity information on mobile carriers with excess capacity, to include the step of entering information into the system using a bar code scanner, because it would simplify and make more accurate the entering of logistic information into the system.

Gaspard does not teach:

A portable housing incorporating a display screen and one or more control buttons;

A memory in the housing;

A positioner in the housing;

A wireless transceiver in the housing;

A scanner in the housing and;

A controller in the housing.

Norand teaches:

A portable housing incorporating a display screen and one or more control buttons;

Reference R, page 1 para 3, portable handheld housing incorporates a VGA display and several programmable control buttons

A memory in the housing;

Reference R, page 1 para 3, 16mb of RAM memory in housing

A wireless transceiver in the housing;

Reference R, page 1 para 7, PC cards include fax modem cards.

A scanner in the housing and;

Reference T, page 2 para 1, driver uses a scanner to enter information into his

handheld unit.

A controller in the housing.

Reference R page 1 para 3, AMD X5 processor is used.

Norand teaches that having drivers use automation via a handheld computer for delivery driver saves a significant amount of time because manual paperwork is automated (see Reference P page 2 para 5). Norand further teaches that giving the drivers the latest in technology improves their self image and morale (Reference P page 3 para 7, Reference T page 2 para 5). Norand also teaches that the driver can track any data that the transportation company wants to track (Reference T page 1 para 8). Norand teaches that the time stamps provided by the system improve productivity on the part of the drivers because of the awareness that every transaction is recorded (Reference P page 2 para 1 & 2). Norand's system prompts the drivers to record information when pickups and delivery is made, and that this results in the drivers scanning detailed package information into their computer regarding the specific package contents (Reference T page 1 para 8). The examiner interprets this to include the weight of the package. Norand teaches that prompts can be sent to the handheld computer in the field about the spotting (i.e. identification) of empty and full trailers (i.e. capacity information) so that logistics planning can occur based on this information (Reference P page 4 para 6).

Norand and Gaspard both address improving efficiency and service in the

logistics field, thus both Norand and Gaspard are analogous art.

Achieving the efficiencies and cost savings as provided by the Norand system (for sample cost savings calculations see Reference P page 2 para 6-8) help improve profitability. Companies are in business to make money and be profitable. Productivity improvements, as are taught by Norand, enable a logistics company to achieve this goal and increase profitability. Gaspard teaches that profitability is a measure by which a new logistics route is to be evaluated. Norand's product improves productivity and thus profitability by making drivers more efficient and in automating their daily tasks. Norand's product automates the detailed tracking of what is on a delivery truck, so that the errors in tracking are significantly reduced. Gaspard teaches that knowing what is on the truck is useful in planning real time route changes to pickup and deliver additional freight because doing so requires understanding the capacity of the particular carrier vehicle.

One of ordinary skill in the art of transportation and logistics at the time of the invention would find it obvious to modify the teachings of Gaspard regarding providing a logistics service that relies on a detailed tracking of what is in the vehicle, to include providing the vehicle driver with a handheld device to automate package tracking and delivery tasks because it would improve driver productivity and morale and improve the accuracy of package tracking to determine available capacity for real time route changes and thus resulting in increased profitability for the logistics company operating

the carrier vehicle.

Regarding **Claim 19**, Gaspard teaches:

Wherein the positioner comprises a GPS receiver,

Figure 1 #170, GPS receiver – also see paragraph 38 line 3.

Regarding **Claim 20**, Gaspard teaches:

Wherein the controller is operable to compute excess capacity information from scanned information relating to maximum volume information and maximum weight haulable by a given mobile carrier entity and volume information and weight for each item of freight being hauled by the given mobile carrier entity.

Paragraph 60 line 2-4, freight requirements of volume and weight for a freight transport request (i.e. excess capacity information) are received from the database to determine if a freight transport request can be fulfilled for a given mobile carrier entity.

Paragraph 41, cube and weight requirements required by mobile carrier entity in weight request

Gaspard does not teach where the excess capacity information is received from the given mobile carrier entity.

The examiner takes Official Notice that receiving from a mobile carrier entity capacity information specifying available freight-hauling capacity is old and well known

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in the art. An example of this are logistics dispatchers who receive excess capacity information via radio from delivery drivers in order to more efficiently schedule routes.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Gaspard, regarding receiving cube and weight information for mobile carrier entities, to include the step of receiving excess capacity information from that mobile carrier entity, because it would enable more efficient scheduling for the mobile carrier entities.

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

WO 00/68859 by Borders discloses Webvan's integrated delivery system.

Business/High-Tech Editors, "@Track to Equip Jet Corr's Fleet with Trackware Trailer-Tracking System", Jun 13, 2001, Business Wire, New York, ProQuest 74061770.

Harrington, Lisa; "High tech trucking improves fleet performance", Oct 1999, Transportation & Distribution, Cleveland, Vol.40, Iss. 10, pg.53, 6 pgs, ProQuest ID 45962319.

Skydel, Seth; "Growth enabled by technology", Dec 2000, Fleet Equipment,

Palatine, Vol. 26, Iss. 12, p.38, 3 pgs, ProQuest ID 66024622.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's


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supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS

JGS 5-15-2006


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